

114TH CONGRESS
1ST SESSION

S. 1469

To amend the Foreign Intelligence Surveillance Act of 1978 and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2015

Mrs. FEINSTEIN (for herself, Mr. KING, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “FISA Reform Act of 2015”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

Sec. 101. Additional requirements for call detail records.

- Sec. 102. Emergency authority.
- Sec. 103. Prohibition on bulk collection of tangible things.
- Sec. 104. Judicial review of minimization procedures for the production of tangible things.
- Sec. 105. Liability protection.
- Sec. 106. Compensation for assistance.
- Sec. 107. Definitions.
- Sec. 108. Effective date.
- Sec. 109. Rule of construction.

TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE REFORM

- Sec. 201. Prohibition on bulk collection.
- Sec. 202. Privacy procedures.

TITLE III—NATIONAL SECURITY LETTER REFORM

- Sec. 301. Prohibition on bulk collection.

TITLE IV—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

- Sec. 401. Additional reporting on orders requiring production of business records; business records compliance reports to Congress.
- Sec. 402. Consolidation of congressional oversight provisions.
- Sec. 403. Submission of reports.

TITLE V—OTHER PROVISIONS

- Sec. 501. Unauthorized Disclosure or Removal of Certain Classified Information.
- Sec. 502. Appointment of amicus curiae.
- Sec. 503. Emergencies involving non-United States persons.
- Sec. 504. Periodic review of intelligence community procedures for the acquisition, retention, and dissemination of intelligence.
- Sec. 505. Preservation of treatment of non-United States persons traveling outside United States as agents of foreign powers.
- Sec. 506. Improvement to investigations of international proliferation of weapons of mass destruction.
- Sec. 507. Sunset of access to business records, authority for roving surveillance, and individual terrorists as agents of foreign powers.
- Sec. 508. Restoration of authority for access to business records, roving surveillance, and individual terrorists as agents of foreign powers.

1 SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE
2 SURVEILLANCE ACT OF 1978.

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or a repeal of, a section or other
6 provision, the reference shall be considered to be made to

1 a section or other provision of the Foreign Intelligence
2 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

3 **TITLE I—FISA BUSINESS**
4 **RECORDS REFORMS**

5 **SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL**
6 **RECORDS.**

7 (a) APPLICATION.—Section 501(b) (50 U.S.C.
8 1861(b)) is amended—

9 (1) in paragraph (1)(B), by striking “and” at
10 the end;

11 (2) in paragraph (2)—

12 (A) in subparagraph (A)—

13 (i) in the matter preceding clause (i),
14 by striking “a statement” and inserting
15 “in the case of an application other than
16 an application described in subparagraph
17 (C) (including an application for the pro-
18 duction of call detail records other than in
19 the manner described in subparagraph
20 (C)), a statement”; and

21 (ii) in clause (iii), by striking “and”
22 at the end;

23 (B) by redesignating subparagraphs (A)
24 and (B) as subparagraphs (B) and (D), respec-
25 tively; and

1 (C) by inserting after subparagraph (B)
2 (as so redesignated) the following new subpara-
3 graph:

4 “(C)(i) in the case of an application for the
5 production on an ongoing basis of call detail
6 records created before, on, or after the date of
7 the application relating to an authorized inves-
8 tigation (other than a threat assessment) con-
9 ducted in accordance with subsection (a)(2) to
10 protect against international terrorism a state-
11 ment of facts showing that—

12 “(I) there are reasonable grounds to
13 believe that the call detail records sought
14 to be produced based on the specific selec-
15 tion term required under subparagraph (A)
16 are relevant to such investigation; and

17 “(II) there is a reasonable, articulable
18 suspicion that such specific selection term
19 is associated with a foreign power or an
20 agent of a foreign power or an individual
21 engaged in international terrorism or ac-
22 tivities in preparation therefor;” and

23 (3) by adding at the end the following:

24 “(3) may include a request for an order that re-
25 quires each recipient of the order under this section

1 to retain the call detail records for up to 24 months
2 from the date the call detail record was initially gen-
3 erated—

4 “(A) if the request includes a certification
5 made by the Director of the Federal Bureau of
6 Investigation that the Government has reason
7 to believe that the recipient of the order being
8 applied for is not retaining call detail records
9 for a period of up to 24 months and that the
10 absence of call detail records for that period of
11 time is resulting in, or is reasonably likely to
12 result in, the loss of foreign intelligence infor-
13 mation relevant to an authorized investigation;
14 and

15 “(B) if the order provides that call detail
16 records retained solely for purposes of com-
17 plying with an order under this section may
18 only be produced pursuant to an order under
19 this section.”.

20 (b) ORDER.—Section 501(c)(2) (50 U.S.C.
21 1861(c)(2)) is amended—

22 (1) in subparagraph (D), by striking “; and”
23 and inserting a semicolon;

24 (2) in subparagraph (E), by striking the period
25 and inserting “; and”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(F) in the case of an application de-
4 scribed in subsection (b)(2)(C), shall—

5 “(i) authorize the production on a
6 daily basis of call detail records for a pe-
7 riod not to exceed 180 days;

8 “(ii) provide that an order for such
9 production may be extended upon applica-
10 tion under subsection (b) and the judicial
11 finding under paragraph (1);

12 “(iii) provide that the Government
13 may require the prompt production of a
14 first set of call detail records using the
15 specific selection term that satisfies the
16 standard required under subsection
17 (b)(2)(C)(ii);

18 “(iv) provide that the Government
19 may require the prompt production of a
20 second set of call detail records using ses-
21 sion-identifying information or a telephone
22 calling card number identified by the spe-
23 cific selection term used to produce call de-
24 tail records under clause (iii);

1 “(v) provide that, when produced,
2 such records be in a form that will be use-
3 ful to the Government;

4 “(vi) direct each person the Govern-
5 ment directs to produce call detail records
6 under the order to furnish the Government
7 forthwith all information, facilities, or
8 technical assistance necessary to accom-
9 plish the production in such a manner as
10 will protect the secrecy of the production
11 and produce a minimum of interference
12 with the services that such person is pro-
13 viding to each subject of the production;
14 and

15 “(vii) shall direct the Government
16 to—

17 “(I) adopt minimization proce-
18 dures that require the prompt de-
19 struction of all call detail records pro-
20 duced under the order that the Gov-
21 ernment determines are not foreign
22 intelligence information; and

23 “(II) destroy all call detail
24 records produced under the order as
25 prescribed by such procedures.”.

1 **SEC. 102. EMERGENCY AUTHORITY.**

2 (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861) is
3 amended by adding at the end the following new sub-
4 section:

5 “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**
6 **TANGIBLE THINGS.**—

7 “(1) Notwithstanding any other provision of
8 this section, the Attorney General may require the
9 emergency production of tangible things if the Attor-
10 ney General—

11 “(A) reasonably determines that an emer-
12 gency situation requires the production of tan-
13 gible things before an order authorizing such
14 production can with due diligence be obtained;

15 “(B) reasonably determines that the fac-
16 tual basis for the issuance of an order under
17 this section to approve such production of tan-
18 gible things exists;

19 “(C) informs, either personally or through
20 a designee, a judge having jurisdiction under
21 this section at the time the Attorney General
22 requires the emergency production of tangible
23 things that the decision has been made to em-
24 ploy the authority under this subsection; and

25 “(D) makes an application in accordance
26 with this section to a judge having jurisdiction

1 under this section as soon as practicable, but
2 not later than 7 days after the Attorney Gen-
3 eral requires the emergency production of tan-
4 gible things under this subsection.

5 “(2) If the Attorney General authorizes the
6 emergency production of tangible things under para-
7 graph (1), the Attorney General shall require that
8 the minimization procedures required by this section
9 for the issuance of a judicial order be followed.

10 “(3) In the absence of a judicial order approv-
11 ing the production of tangible things under this sub-
12 section, the production shall terminate when the in-
13 formation sought is obtained, when the application
14 for the order is denied, or after the expiration of 7
15 days from the time the Attorney General begins re-
16 quiring the emergency production of such tangible
17 things, whichever is earliest.

18 “(4) A denial of the application made under
19 this subsection may be reviewed as provided in sec-
20 tion 103.

21 “(5) If such application for approval is denied,
22 or in any other case where the production of tangible
23 things is terminated and no order is issued approv-
24 ing the production, no information obtained or evi-
25 dence derived from such production shall be received

1 in evidence or otherwise disclosed in any trial, hear-
2 ing, or other proceeding in or before any court,
3 grand jury, department, office, agency, regulatory
4 body, legislative committee, or other authority of the
5 United States, a State, or political subdivision there-
6 of, and no information concerning any United States
7 person acquired from such production shall subse-
8 quently be used or disclosed in any other manner by
9 Federal officers or employees without the consent of
10 such person, except with the approval of the Attor-
11 ney General if the information indicates a threat of
12 death or serious bodily harm to any person.

13 “(6) The Attorney General shall assess compli-
14 ance with the requirements of paragraph (5).”.

15 (b) CONFORMING AMENDMENT.—Section 501(d) (50
16 U.S.C. 1861(d)) is amended—

17 (1) in paragraph (1)—

18 (A) in the matter preceding subparagraph
19 (A), by striking “pursuant to an order” and in-
20 serting “pursuant to an order issued or an
21 emergency production required”;

22 (B) in subparagraph (A), by striking “such
23 order;” and inserting “such order or such emer-
24 gency production;”; and

1 (C) in subparagraph (B), by striking “the
2 order;” and inserting “the order or the emer-
3 gency production;”; and

4 (2) in paragraph (2)—

5 (A) in subparagraph (A), by striking “an
6 order” and inserting “an order or emergency
7 production”; and

8 (B) in subparagraph (B), by striking “an
9 order” and inserting “an order or emergency
10 production”.

11 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**
12 **GIBLE THINGS.**

13 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.
14 1861(b)(2)), as amended by section 101(a) of this Act,
15 is further amended by inserting before subparagraph (B),
16 as redesignated by such section 101(a) of this Act, the
17 following new subparagraph:

18 “(A) a specific selection term to be used as
19 the basis for the production of the tangible
20 things sought;”.

21 (b) ORDER.—Section 501(c) (50 U.S.C. 1861(c)) is
22 amended—

23 (1) in paragraph (2)(A), by striking the semi-
24 colon and inserting “, including each specific selec-

1 tion term to be used as the basis for the produc-
2 tion;” and

3 (2) by adding at the end the following new
4 paragraph:

5 “(3) No order issued under this subsection may au-
6 thorize the collection of tangible things without the use
7 of a specific selection term that meets the requirements
8 of subsection (b)(2).”.

9 **SEC. 104. JUDICIAL REVIEW OF MINIMIZATION PROCE-
10 DURES FOR THE PRODUCTION OF TANGIBLE
11 THINGS.**

12 (a) MINIMIZATION PROCEDURES.—

13 (1) JUDICIAL REVIEW.—Section 501(c)(1) (50
14 U.S.C. 1861(c)(1)) is amended by inserting after
15 “subsections (a) and (b)” the following: “and that
16 the minimization procedures submitted in accord-
17 ance with subsection (b)(2)(D) meet the definition of
18 minimization procedures under subsection (g)”.

19 (2) RULE OF CONSTRUCTION.—Section 501(g)
20 (50 U.S.C. 1861(g)) is amended by adding at the
21 end the following new paragraph:

22 “(3) RULE OF CONSTRUCTION.—Nothing in
23 this subsection shall limit the authority of the court
24 established under section 103(a) to impose addi-
25 tional, particularized minimization procedures with

1 regard to the production, retention, or dissemination
2 of nonpublicly available information concerning
3 unconsenting United States persons, including addi-
4 tional, particularized procedures related to the de-
5 struction of information within a reasonable time pe-
6 riod.”.

7 (3) TECHNICAL AND CONFORMING AMEND-
8 MENT.—Section 501(g)(1) (50 U.S.C. 1861(g)(1)) is
9 amended—

10 (A) by striking “Not later than 180 days
11 after the date of the enactment of the USA PA-
12 TRIOT Improvement and Reauthorization Act
13 of 2005, the” and inserting “The”; and

14 (B) by inserting “, and update as appro-
15 priate,” after “adopt”.

16 (b) ORDERS.—Section 501(f)(2) (50 U.S.C.
17 1861(f)(2)) is amended—

18 (1) in subparagraph (A)(i)—

19 (A) by striking “that order” and inserting
20 “the production order or any nondisclosure
21 order imposed in connection with the produc-
22 tion order”; and

23 (B) by striking the second sentence; and

24 (2) in subparagraph (C)—

25 (A) by striking clause (ii); and

1 (B) by redesignating clause (iii) as clause
2 (ii).

3 **SEC. 105. LIABILITY PROTECTION.**

4 Section 501(e) (50 U.S.C. 1861(e)) is amended to
5 read as follows:

6 “(e)(1) No cause of action shall lie in any court
7 against a person who—

8 (A) produces tangible things or provides infor-
9 mation, facilities, or technical assistance pursuant to
10 an order issued or an emergency production required
11 under this section;

12 (B) in good faith, retains call detail records
13 under an order pursuant to this section; or

14 (C) otherwise provides technical assistance to
15 the Government under this section or to implement
16 this section.

17 “(2) A production or provision of information, facili-
18 ties, or technical assistance or the retention of call detail
19 records described in paragraph (1) shall not be deemed
20 to constitute a waiver of any privilege in any other pro-
21 ceeding or context.”.

22 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

23 Section 501 (50 U.S.C. 1861), as amended by section
24 102 of this Act, is further amended by adding at the end
25 the following new subsection:

1 “(j) COMPENSATION.—The Government shall com-
2 pensate a person for reasonable expenses incurred for—

3 “(1) producing tangible things or providing in-
4 formation, facilities, or assistance in accordance with
5 an order issued with respect to an application de-
6 scribed in subsection (b)(2)(C) or an emergency pro-
7 duction under subsection (i) that, to comply with
8 subsection (i)(1)(D), requires an application de-
9 scribed in subsection (b)(2)(C); or

10 “(2) otherwise providing technical assistance to
11 the Government under this section or to implement
12 this section.”.

13 **SEC. 107. DEFINITIONS.**

14 (a) IN GENERAL.—Title V (50 U.S.C. 1861 et seq.),
15 is amended by adding at the end the following:

16 **“SEC. 503. DEFINITIONS.**

17 “In this title:

18 “(1) CALL DETAIL RECORD.—The term ‘call de-
19 tail record’—

20 “(A) means session identifying information
21 (including originating or terminating telephone
22 number, International Mobile Subscriber Iden-
23 tity number, or International Mobile Station
24 Equipment Identity number), a telephone call-

1 ing card number, or the time or duration of a
2 call; and

3 “(B) does not include—

4 “(i) the contents of any communica-
5 tion (as defined in section 2510(8) of title
6 18, United States Code);

7 “(ii) the name, address, or financial
8 information of a subscriber or customer; or

9 “(iii) cell site or global position sys-
10 tem location information.

11 “(2) ELECTRONIC COMMUNICATION SERVICE.—

12 The term ‘electronic communication service’ has the
13 meaning given that term in section 2510 of title 18,
14 United States Code.

15 “(3) FOREIGN INTELLIGENCE INFORMATION.—

16 The term ‘foreign intelligence information’ has the
17 meaning given that term in section 101.

18 “(4) SPECIFIC SELECTION TERM.—

19 “(A) TANGIBLE THINGS.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in subparagraph (B), a ‘specific se-
22 lection term’ is a term that specifically
23 identifies a person, account, address, or
24 personal device, or any other specific iden-
25 tifier that limits, to the greatest extent

1 reasonably practicable, the scope of tan-
2 gible things sought by the government con-
3 sistent with the purpose and need to obtain
4 foreign intelligence information.

5 “(ii) LIMITATION.—A ‘specific selec-
6 tion term’ shall not permit the bulk or in-
7 discriminate collection of tangible things,
8 such as by solely identifying an electronic
9 communication service provider or a pro-
10 vider of remote computing service, unless
11 the provider is itself a subject of an au-
12 thorized investigation, or by solely identi-
13 fying a broad domestic geographic region,
14 including the United States, a State, city,
15 county, zip code, or area code when not
16 used as part of a specific identifier as de-
17 scribed in clause (i).

18 “(iii) RULE OF CONSTRUCTION.—
19 Nothing in this paragraph shall be con-
20 strued to preclude the use of multiple
21 terms or identifiers to meet the require-
22 ments of clause (i).

23 “(B) CALL DETAIL RECORD APPLICA-
24 TIONS.—For purposes of an application sub-
25 mitted under subsection (b)(2)(C), the term

1 ‘specific selection term’ means a term that spe-
2 cifically identifies an individual, account, or per-
3 sonal device.”.

4 (b) TABLE OF CONTENTS AMENDMENT.—The table
5 of contents in the first section is amended by adding after
6 the item relating to section 503, as added by section
7 107(b), the following:

“Sec. 503. Definitions.”.

8 **SEC. 108. EFFECTIVE DATE.**

9 (a) EFFECTIVE DATE.—The amendments made by
10 sections 101 through 107 shall take effect no later than
11 the date that is 1 year after the date of the enactment
12 of this Act as follows:

13 (1) IN GENERAL.—The amendments made by
14 sections 101 through 107 shall take effect on the
15 date that is 180 days after the date of the enact-
16 ment of this Act unless the President certifies to the
17 appropriate committees of Congress that the transi-
18 tion from the existing procedures for the production
19 of business records under title V of the Foreign In-
20 telligence Surveillance Act of 1978 (50 U.S.C. 1861
21 et seq.), as in effect prior to the effective date for
22 the amendments made by section 101 through 107,
23 to the new procedures, as amended by sections 101
24 through 107, is not sufficiently operational to allow
25 the timely retrieval of foreign intelligence informa-

1 tion from recipients of an order under section 501
2 of such Act.

3 (2) EXTENSION FOR CERTIFICATION.—If the
4 President makes a certification described in para-
5 graph (1), the amendment made by sections 101
6 through 107 shall take effect on the date, that may
7 be up to 1 year after the date of the enactment of
8 this Act, that the President determines that the
9 transition referred to in such paragraph is suffi-
10 ciently operational to allow the timely retrieval of
11 foreign intelligence information from recipients of an
12 order under section 501 of such Act.

13 (3) LIMITATION ON TRANSITION PERIOD.—If
14 the President makes a certification under paragraph
15 (1) and does not determine an effective date under
16 paragraph (2), the amendments made by sections
17 101 through 107 shall take effect on the date that
18 is 1 year after the date of the enactment of this Act.

19 (b) NO EFFECT ON PRIOR AUTHORITY.—Nothing in
20 this Act, or any amendment made by this Act, shall be
21 construed to alter or eliminate the authority of the Gov-
22 ernment to obtain an order under title V of the Foreign
23 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et
24 seq.) as in effect on May 31, 2015, during the period end-
25 ing on such effective date.

1 (c) TRANSITION.—

2 (1) ORDERS IN EFFECT ON MAY 31, 2015.—Not-
3 withstanding any other provision of the Foreign In-
4 telligence Surveillance Act of 1978 (50 U.S.C. 1801
5 et seq.) or this Act or any amendment made by this
6 Act, any order issued or made under title V of the
7 Foreign Intelligence Surveillance Act of 1978 and in
8 effect on May 31, 2015, shall continue in effect until
9 the date of the expiration of such order.

10 (2) CONTINUED APPLICABILITY.—Notwith-
11 standing any other provision of the Foreign Intel-
12 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
13 seq.) or this Act or any amendment made by this
14 Act, the order entered by the court established under
15 section 103(a) of the Foreign Intelligence Surveil-
16 lance Act of 1978 (50 U.S.C. 1803(a)) on February
17 26, 2015, in Docket No. BR 15–24, may be ex-
18 tended by order of that court until the effective date
19 established in subsection (a).

20 (3) USE OF INFORMATION.—

21 (A) IN GENERAL.—Information acquired
22 from the call detail records pursuant to an
23 order issued under section 501 of the Foreign
24 Intelligence Surveillance Act of 1978 (50
25 U.S.C. 1861) prior to the effective date in sub-

1 section (a) may continue to be used after the
2 effective date of this Act, subject to the limita-
3 tion in subparagraph (B).

4 (B) DESTRUCTION OF INFORMATION.—
5 Any record produced under any order entered
6 by the court established under section 103(a) of
7 the Foreign Intelligence Surveillance Act of
8 1978 (50 U.S.C. 1803(a)) on February 26
9 2015, in Docket No. BR 15–24, or any prede-
10 cessor order for such an order shall be de-
11 stroyed no later than 5 years after the date
12 such record was initially collected. Until that
13 time, such a record may be used in accordance
14 with the purpose prescribed and the procedures
15 established in such order.

16 (d) APPROPRIATE COMMITTEES OF CONGRESS DE-
17 FINED.—In this section, the term “appropriate commit-
18 tees of Congress” means—

19 (1) the Committee on the Judiciary and the Se-
20 lect Committee on Intelligence of the Senate; and

21 (2) the Committee on the Judiciary and the
22 Permanent Select Committee on Intelligence of the
23 House of Representatives

1 **SEC. 109. RULE OF CONSTRUCTION.**

2 Nothing in this Act, or any amendment made by this
3 Act, shall be construed to authorize the production of the
4 contents (as such term is defined in section 2510(8) of
5 title 18, United States Code) of any electronic communica-
6 tion from an electronic communication service provider (as
7 such term is defined in section 701(b)(4) of the Foreign
8 Intelligence Surveillance Act of 1978 (50 U.S.C.
9 1881(b)(4)) under title V of the Foreign Intelligence Sur-
10 veillance Act of 1978 (50 U.S.C. 1861 et seq.).

11 **TITLE II—FISA PEN REGISTER**
12 **AND TRAP AND TRACE DE-**
13 **VICE REFORM**

14 **SEC. 201. PROHIBITION ON BULK COLLECTION.**

15 (a) PROHIBITION.—Section 402(c) (50 U.S.C.
16 1842(c)) is amended—

17 (1) in paragraph (1), by striking “; and” and
18 inserting a semicolon;

19 (2) in paragraph (2), by striking the period and
20 inserting a semicolon; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(3) a specific selection term to be used as the
24 basis for the use of the pen register or trap and
25 trace device is to be attached or applied; and”.

1 (b) DEFINITION.—Section 401 (50 U.S.C. 1841) is
2 amended by adding at the end the following new para-
3 graph:

4 “(4) The term ‘specific selection term’ has the
5 meaning given the term in section 504.”.

6 **SEC. 202. PRIVACY PROCEDURES.**

7 (a) IN GENERAL.—Section 402 (50 U.S.C. 1842) is
8 amended by adding at the end the following new sub-
9 section:

10 “(h) PRIVACY PROCEDURES.—

11 “(1) IN GENERAL.—The Attorney General shall
12 ensure that appropriate policies and procedures are
13 in place to safeguard nonpublicly available informa-
14 tion concerning United States persons that is col-
15 lected through the use of a pen register or trap and
16 trace device installed under this section. Such poli-
17 cies and procedures shall, to the maximum extent
18 practicable and consistent with the need to protect
19 national security, include protections for the collec-
20 tion, retention, and use of information concerning
21 United States persons.

22 “(2) RULE OF CONSTRUCTION.—Nothing in
23 this subsection shall be construed to limit the au-
24 thority of the court established under section 103(a)
25 or of the Attorney General to impose additional pri-

1 vacy or minimization procedures with regard to the
 2 installation or use of a pen register or trap and
 3 trace device.”.

4 (b) EMERGENCY AUTHORITY.—Section 403 (50
 5 U.S.C. 1843) is amended by adding at the end the fol-
 6 lowing new subsection:

7 “(d) PRIVACY PROCEDURES.—Information collected
 8 through the use of a pen register or trap and device in-
 9 stalled under this section shall be subject to the policies
 10 and procedures required under section 402(h).”.

11 **TITLE III—NATIONAL SECURITY**
 12 **LETTER REFORM**

13 **SEC. 301. PROHIBITION ON BULK COLLECTION.**

14 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
 15 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)
 16 of title 18, United States Code, is amended in the matter
 17 preceding paragraph (1) by striking “may—” and insert-
 18 ing “may, using a term that specifically identifies a per-
 19 son, entity, telephone number, or account as the basis for
 20 a request—”.

21 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
 22 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
 23 1114(a)(2) of the Right to Financial Privacy Act of 1978
 24 (12 U.S.C. 3414(a)(2)) is amended by striking the period
 25 and inserting “and term that specifically identifies a cus-

1 tomer, entity, or account to be used as the basis for the
2 production and disclosure of financial records.”.

3 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER
4 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-
5 tion 626 of the Fair Credit Reporting Act (15 U.S.C.
6 1681u) is amended—

7 (1) in subsection (a), by striking “that informa-
8 tion,” and inserting “extent that information that
9 includes a term that specifically identifies a con-
10 sumer or account to be used as the basis for the pro-
11 duction of that information,”;

12 (2) in subsection (b), by striking “written re-
13 quest,” and inserting “written request that includes
14 a term that specifically identifies a consumer or ac-
15 count to be used as the basis for the production of
16 that information,”; and

17 (3) in subsection (c), by inserting “, which shall
18 include a term that specifically identifies a consumer
19 or account to be used as the basis for the production
20 of the information,” after “issue an order ex parte”.

21 (d) DISCLOSURES TO GOVERNMENTAL AGENCIES
22 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-
23 PORTS.—Section 627(a) of the Fair Credit Reporting Act
24 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”
25 and inserting “analysis and that includes a term that spe-

1 cifically identifies a consumer or account to be used as
2 the basis for the production of such information.”.

3 **TITLE IV—FISA TRANSPARENCY**
4 **AND REPORTING REQUIRE-**
5 **MENTS**

6 **SEC. 401. ADDITIONAL REPORTING ON ORDERS REQUIRING**
7 **PRODUCTION OF BUSINESS RECORDS; BUSI-**
8 **NESS RECORDS COMPLIANCE REPORTS TO**
9 **CONGRESS.**

10 Section 502(b) (50 U.S.C. 1862(b)) is amended—

11 (1) by redesignating paragraphs (1), (2), and
12 (3) as paragraphs (6), (7), and (8), respectively; and

13 (2) by inserting before paragraph (6) (as so re-
14 designated) the following new paragraphs:

15 “(1) a summary of all compliance reviews con-
16 ducted by the Government for the production of tan-
17 gible things under section 501;

18 “(2) the total number of applications described
19 in section 501(b)(2)(B) made for orders approving
20 requests for the production of tangible things;

21 “(3) the total number of such orders either
22 granted, modified, or denied;

23 “(4) the total number of applications described
24 in section 501(b)(2)(C) made for orders approving
25 requests for the production of call detail records;

1 “(5) the total number of such orders either
2 granted, modified, or denied;”.

3 **SEC. 402. CONSOLIDATION OF CONGRESSIONAL OVER-**
4 **SIGHT PROVISIONS.**

5 (a) REPEAL OF CONGRESSIONAL OVERSIGHT PROVI-
6 SIONS.—

7 (1) REPEAL.—The Foreign Intelligence Surveil-
8 lance Act of 1978 is amended by striking sections
9 107, 108, 306, and 406 (50 U.S.C. 1807, 1808,
10 1826, and 1846).

11 (2) TABLE OF CONTENTS AMENDMENT.—The
12 table of contents in the first section is amended by
13 striking the items relating to sections 107, 108, 306,
14 and 406.

15 (b) REPORTING REQUIREMENTS AND CONGRES-
16 SIONAL OVERSIGHT.—

17 (1) IN GENERAL.—Title VI (50 U.S.C. 1871) is
18 amended by striking section 601 and inserting the
19 following:

20 **“SEC. 601. DEFINITIONS.**

21 “In this title:

22 “(1) APPROPRIATE COMMITTEES OF CON-
23 GRESS.—The term ‘appropriate committees of Con-
24 gress’ means—

1 “(A) the Select Committee on Intelligence
2 and the Committee on the Judiciary of the Sen-
3 ate; and

4 “(B) the Permanent Select Committee on
5 Intelligence and the Committee on the Judici-
6 ary of the House of Representatives.

7 “(2) ELECTRONIC SURVEILLANCE.—The term
8 ‘electronic surveillance’ has the meaning given that
9 term in section 101 of this Act.

10 “(3) FOREIGN INTELLIGENCE SURVEILLANCE
11 COURT.—The term ‘Foreign Intelligence Surveillance
12 Court’ means the court established under section
13 103(a) of this Act.

14 “(4) FOREIGN INTELLIGENCE SURVEILLANCE
15 COURT OF REVIEW.—The term ‘Foreign Intelligence
16 Surveillance Court of Review’ means the court estab-
17 lished under section 103(b) of this Act.

18 “(5) PEN REGISTER.—The term ‘pen register’
19 has the meaning given that term in section 401 of
20 this Act.

21 “(6) PHYSICAL SEARCH.—The term ‘physical
22 search’ has the meaning given that term in section
23 301 of this Act.

1 “(7) TRAP AND TRACE DEVICE.—The term
2 ‘trap and trace device’ has the meaning given that
3 term in section 401 of this Act.

4 “(8) UNITED STATES PERSON.—The term
5 ‘United States person’ has the meaning given that
6 term in section 101 of this Act.

7 **“SEC. 602. SEMIANNUAL REPORT OF THE ATTORNEY GEN-**
8 **ERAL.**

9 “(a) IN GENERAL.—

10 “(1) INFORMATION.—On a semiannual basis,
11 the Attorney General shall submit to the appropriate
12 committees of Congress a report pursuant to para-
13 graph (2) concerning all electronic surveillance,
14 physical searches, and uses of pen registers and trap
15 and trace devices conducted under this Act.

16 “(2) REPORT.—The report required by para-
17 graph (1) shall include the following:

18 “(A) ELECTRONIC SURVEILLANCE.—The
19 total number of—

20 “(i) applications made for orders ap-
21 proving electronic surveillance under this
22 Act;

23 “(ii) such orders either granted, modi-
24 fied, or denied;

1 “(iii) proposed applications for orders
2 for electronic surveillance submitted pursu-
3 ant to Rule 9(a) of the Rules of Procedure
4 for the Foreign Intelligence Surveillance
5 Court, or any successor rule, that are not
6 formally presented in the form of a final
7 application under Rule 9(b) of the Rules of
8 Procedure for the Foreign Intelligence Sur-
9 veillance Court, or any successor rule;

10 “(iv) named United States person tar-
11 gets of electronic surveillance;

12 “(v) emergency authorizations of elec-
13 tronic surveillance granted under this Act
14 and the total number of subsequent orders
15 approving or denying such electronic sur-
16 veillance; and

17 “(vi) new compliance incidents arising
18 from electronic surveillance under this Act.

19 “(B) PHYSICAL SEARCHES.—The total
20 number of—

21 “(i) applications made for orders ap-
22 proving physical search under this Act;

23 “(ii) such orders either granted, modi-
24 fied, or denied;

1 “(iii) proposed applications for orders
2 for physical searches submitted pursuant
3 to Rule 9(a) of the Rules of Procedure for
4 the Foreign Intelligence Surveillance
5 Court, or any successor rule, that are not
6 formally presented in the form of a final
7 application under Rule 9(b) of the Rules of
8 Procedure for the Foreign Intelligence Sur-
9 veillance Court, or any successor rule;

10 “(iv) named United States person tar-
11 gets of physical searches;

12 “(v) emergency authorizations of
13 physical searches granted under this Act
14 and the total number of subsequent orders
15 approving or denying such physical
16 searches; and

17 “(vi) new compliance incidents arising
18 from physical searches under this Act.

19 “(C) PEN REGISTER AND TRAP AND TRACE
20 DEVICES.—The total number of—

21 “(i) applications made for orders ap-
22 proving the use of pen registers or trap
23 and trace devices under this Act;

24 “(ii) such orders either granted, modi-
25 fied, or denied;

1 “(iii) proposed applications for orders
2 for pen registers or trap and trace devices
3 submitted pursuant to Rule 9(a) of the
4 Rules of Procedure for the Foreign Intel-
5 ligence Surveillance Court, or any suc-
6 cessor rule, that are not formally presented
7 in the form of a final application under
8 Rule 9(b) of the Rules of Procedure for the
9 Foreign Intelligence Surveillance Court, or
10 any successor rule;

11 “(iv) named United States person tar-
12 gets of pen registers or trap and trace de-
13 vices;

14 “(v) emergency authorizations of the
15 use of pen registers or trap and trace de-
16 vices granted under this Act and the total
17 number of subsequent orders approving or
18 denying such use of pen registers or trap
19 and trace devices; and

20 “(vi) new compliance incidents arising
21 from the use of pen registers or trap and
22 trace devices under this Act.

23 “(D) COMPLIANCE INCIDENTS.—A sum-
24 mary of each compliance incident reported

1 under subparagraphs (A)(vi), (B)(vi), and
2 (C)(vi).

3 “(E) SIGNIFICANT LEGAL INTERPRETA-
4 TIONS.—A summary of significant legal inter-
5 pretations of this Act involving matters before
6 the Foreign Intelligence Surveillance Court or
7 the Foreign Intelligence Surveillance Court of
8 Review, including interpretations presented in
9 applications or pleadings filed with the Foreign
10 Intelligence Surveillance Court or the Foreign
11 Intelligence Surveillance Court of Review.

12 “(b) AVAILABILITY TO MEMBERS OF CONGRESS.—
13 Consistent with the rules and practices of the Senate and
14 the House of Representatives, each report submitted pur-
15 suant to subsection (a)(2) shall be made available to every
16 member of Congress, subject to appropriate procedures for
17 the storage and handling of classified information.

18 “(c) PUBLIC REPORT.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the Attorney General, in consultation with the Direc-
21 tor of National Intelligence, shall make available to
22 the public an unclassified annual summary of the re-
23 ports submitted under subsection (a) that, to the
24 maximum extent practicable consistent with the pro-
25 tection of classified information, includes the infor-

1 mation contained in the report submitted pursuant
2 to subsection (a)(2).

3 “(2) MINIMUM REQUIREMENTS.—In each re-
4 port made available to the public under paragraph
5 (1), the Attorney General shall include, at a min-
6 imum, the information required under subpara-
7 graphs (A), (B), and (C) of subsection (a)(2), which
8 may be presented as annual totals.

9 “(d) CONSTRUCTION.—Nothing in this title may be
10 construed to limit the authority and responsibility of an
11 appropriate committee of Congress to obtain any informa-
12 tion required by such committee to carry out its functions
13 and duties.

14 **“SEC. 603. AVAILABILITY OF REPORTS AND SUBMISSIONS.**

15 “(a) AVAILABILITY TO MEMBERS OF CONGRESS.—
16 Consistent with the rules and practices of the Senate and
17 the House of Representatives, each submission to Con-
18 gress made pursuant to section 502(b), 702(l)(1), or 707
19 shall be made available, to every member of Congress, sub-
20 ject to appropriate procedures for the storage and han-
21 dling of classified information.

22 “(b) PUBLIC REPORT.—The Attorney General or the
23 Director of National Intelligence, as appropriate, shall
24 make available to the public unclassified reports that, to
25 the maximum extent practicable consistent with the pro-

1 tection of classified information, include the information
2 contained in each submission to Congress made pursuant
3 to section 502(b), 702(l)(1), or 707.”.

4 **“SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO**
5 **ORDERS.**

6 “(a) REPORTING.—A person subject to a nondislo-
7 sure requirement accompanying an order or directive
8 under this Act or a national security letter may, with re-
9 spect to such order, directive, or national security letter,
10 publicly report the following information using one of the
11 following structures:

12 “(1) A semiannual report that aggregates the
13 number of orders, directives, or national security let-
14 ters with which the person was required to comply
15 into separate categories of—

16 “(A) the number of national security let-
17 ters received, reported in bands of 1000 start-
18 ing with 0–999;

19 “(B) the number of customer selectors tar-
20 geted by national security letters, reported in
21 bands of 1000 starting with 0–999;

22 “(C) the number of orders or directives re-
23 ceived, combined, under this Act for contents,
24 reported in bands of 1000 starting with 0–999;

1 “(D) the number of customer selectors tar-
2 geted under orders or directives received, com-
3 bined, under this Act for contents reported in
4 bands of 1000 starting with 0–999;

5 “(E) the number of orders received under
6 this Act for noncontents, reported in bands of
7 1000 starting with 0–999; and

8 “(F) the number of customer selectors tar-
9 geted under orders under this Act for noncon-
10 tents, reported in bands of 1000 starting with
11 0–999, pursuant to—

12 “(i) title IV;

13 “(ii) title V with respect to applica-
14 tions described in section 501(b)(2)(B);
15 and

16 “(iii) title V with respect to applica-
17 tions described in section 501(b)(2)(C).

18 “(2) A semiannual report that aggregates the
19 number of orders, directives, or national security let-
20 ters with which the person was required to comply
21 into separate categories of—

22 “(A) the number of national security let-
23 ters received, reported in bands of 500 starting
24 with 0–499;

1 “(B) the number of customer selectors tar-
2 geted by national security letters, reported in
3 bands of 500 starting with 0–499;

4 “(C) the number of orders or directives re-
5 ceived, combined, under this Act for contents,
6 reported in bands of 500 starting with 0–499;

7 “(D) the number of customer selectors tar-
8 geted under orders or directives received, com-
9 bined, under this Act for contents, reported in
10 bands of 500 starting with 0–499;

11 “(E) the number of orders received under
12 this Act for noncontents, reported in bands of
13 500 starting with 0–499; and

14 “(F) the number of customer selectors tar-
15 geted under orders received under this Act for
16 noncontents, reported in bands of 500 starting
17 with 0–499.

18 “(3) A semiannual report that aggregates the
19 number of orders, directives, or national security let-
20 ters with which the person was required to comply
21 in the into separate categories of—

22 “(A) the total number of all national secu-
23 rity process received, including all national se-
24 curity letters, and orders or directives under

1 this Act, combined, reported in bands of 250
2 starting with 0–249; and

3 “(B) the total number of customer selec-
4 tors targeted under all national security process
5 received, including all national security letters,
6 and orders or directives under this Act, com-
7 bined, reported in bands of 250 starting with
8 0–249.

9 “(4) An annual report that aggregates the
10 number of orders, directives, and national security
11 letters the person was required to comply with into
12 separate categories of—

13 “(A) the total number of all national secu-
14 rity process received, including all national se-
15 curity letters, and orders or directives under
16 this Act, combined, reported in bands of 100
17 starting with 0–99; and

18 “(B) the total number of customer selec-
19 tors targeted under all national security process
20 received, including all national security letters,
21 and orders or directives under this Act, com-
22 bined, reported in bands of 100 starting with
23 0–99.

24 “(b) PERIOD OF TIME COVERED BY REPORTS.—

1 “(1) REPORTS UNDER SUBSECTION (a)(1) OR
2 (a)(2).—A report described in paragraph (1) or (2)
3 of subsection (a) shall include only information—

4 “(A) relating to national security letters
5 for the previous 180 days; and

6 “(B) relating to authorities under this Act
7 for the 180-day period of time ending on the
8 date that is not less than 180 days prior to the
9 date of the publication of such report, except
10 that with respect to a platform, product, or
11 service for which a person did not previously re-
12 ceive an order or directive (not including an en-
13 hancement to or iteration of an existing publicly
14 available platform, product, or service) such re-
15 port shall not include any information relating
16 to such new order or directive until 540 days
17 after the date on which such new order or di-
18 rective is received.

19 “(2) REPORTS UNDER SUBSECTION (a)(3).—A
20 report described in paragraph (3) of subsection (a)
21 shall include only information relating to the pre-
22 vious 180 days.

23 “(3) REPORTS UNDER SUBSECTION (a)(4).—A
24 report described in paragraph (4) of subsection (a)
25 shall include only information for the 1-year period

1 of time ending on the date that is not less than 1
2 year prior to the date of the publication of such re-
3 port.

4 “(c) OTHER FORMS OF AGREED TO PUBLICATION.—

5 Nothing in this section prohibits the Government and any
6 person from jointly agreeing to the publication of informa-
7 tion referred to in this subsection in a time, form, or man-
8 ner other than as described in this section.

9 “(d) DEFINITIONS.—In this section:

10 “(1) CONTENTS.—The term ‘contents’ has the
11 meaning given that term under section 2510 of title
12 18, United States Code.

13 “(2) NATIONAL SECURITY LETTER.—The term
14 ‘national security letter’ has the meaning given that
15 term under section 603.

16 **“SEC. 605. REPORTING REQUIREMENTS FOR DECISIONS,**
17 **ORDERS, AND OPINIONS OF THE FOREIGN IN-**
18 **TELLIGENCE SURVEILLANCE COURT AND**
19 **THE FOREIGN INTELLIGENCE SURVEIL-**
20 **LANCE COURT OF REVIEW.**

21 “Not later than 45 days after the date on which the
22 Foreign Intelligence Surveillance Court or the Foreign In-
23 telligence Surveillance Court of Review issues a decision,
24 order, or opinion, including any denial or modification of
25 an application under this Act, that includes significant

1 construction or interpretation of any provision of law or
2 results in a change of application of any provision of this
3 Act or a novel application of any provision of this Act,
4 the Attorney General shall submit to the appropriate com-
5 mittees of Congress a copy of such decision, order, or opin-
6 ion and any pleadings, applications, or memoranda of law
7 associated with such decision, order, or opinion.”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) REPORTING REQUIREMENTS.—Section
10 403(b)(2)(B) of the FISA Amendments Act of
11 2008 (50 U.S.C. 1871 note) is amended to read
12 as follows:

13 “(B) subject to section 404, section
14 603(a)(1) of such Act is amended—

15 “(i) in subsection (a), by striking ‘sec-
16 tion 502(b), 702(l)(1), or 707’ and insert-
17 ing ‘section 502(b)’; and

18 “(ii) in subsection (b), by striking
19 ‘section 502(b), 702(l)(1), or 707.’ and in-
20 serting ‘section 502(b).’; and”.

21 (B) TRANSITION PROCEDURES.—Section
22 404(b)(4) of the FISA Amendments Act of
23 2008 (50 U.S.C. 1801 note) is amended—

24 (i) by amending subparagraph (A) to
25 read as follows:

1 “(A) CONTINUED APPLICABILITY.—Not-
2 withstanding any other provision of this Act or
3 of the Foreign Intelligence Surveillance Act of
4 1978 (50 U.S.C. 1801 et seq.), the reporting
5 requirements of title VI of such Act related to
6 sections 702(l)(1) and 707, and sections 702(l)
7 and 707 of such Act, as added by section
8 101(a), shall continue to apply until the date
9 that the certification described in subparagraph
10 (B) is submitted.”; and

11 (ii) by amending subparagraph (B)(iv)
12 to read as follows:

13 “(iv) that states that the information
14 required to be included in a review, assess-
15 ment, or report under title VI of such Act,
16 or section 702(l) or 707 of such Act, as
17 added by section 101(a), relating to any
18 acquisition conducted under title VII of
19 such Act, as amended by section 101(a),
20 has been included in a review, assessment,
21 or report under such title IV or section
22 702(l) or 707.”.

23 (3) TABLE OF CONTENTS AMENDMENT.—The
24 table of contents in the first section is amended by

1 striking the item relating to section 601 and insert-
2 ing the following:

“Sec. 601. Definitions.

“Sec. 602. Semiannual report of the Attorney General.

“Sec. 603. Availability of reports and submissions.

“Sec. 604. Public reporting by persons subject to orders.

“Sec. 605. Reporting requirements for decisions, orders, and opinions of the
Foreign Intelligence Surveillance Court and the Foreign Intel-
ligence Surveillance Court of Review.”.

3 **SEC. 403. SUBMISSION OF REPORTS.**

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)
5 (50 U.S.C. 1808(a)(1)) is amended by striking “the
6 House Permanent Select Committee on Intelligence and
7 the Senate Select Committee on Intelligence, and the
8 Committee on the Judiciary of the Senate,” and inserting
9 “the Permanent Select Committee on Intelligence and the
10 Committee on the Judiciary of the House of Representa-
11 tives and the Select Committee on Intelligence and the
12 Committee on the Judiciary of the Senate”.

13 (b) **PHYSICAL SEARCHES.**—The matter preceding
14 paragraph (1) of section 306 (50 U.S.C. 1826) is amend-
15 ed—

16 (1) in the first sentence, by striking “Perma-
17 nent Select Committee on Intelligence of the House
18 of Representatives and the Select Committee on In-
19 telligence of the Senate, and the Committee on the
20 Judiciary of the Senate,” and inserting “Permanent
21 Select Committee on Intelligence and the Committee
22 on the Judiciary of the House of Representatives

1 and the Select Committee on Intelligence and the
2 Committee on the Judiciary of the Senate”; and

3 (2) in the second sentence, by striking “and the
4 Committee on the Judiciary of the House of Rep-
5 resentatives”.

6 (c) PEN REGISTERS AND TRAP AND TRACE DE-
7 VICES.—Section 406(b) (50 U.S.C. 1846(b)) is amend-
8 ed—

9 (1) in paragraph (2), by striking “; and” and
10 inserting a semicolon;

11 (2) in paragraph (3), by striking the period and
12 inserting a semicolon; and

13 (3) by adding at the end the following new
14 paragraphs:

15 “(4) each department or agency on behalf of
16 which the Attorney General or a designated attorney
17 for the Government has made an application for an
18 order authorizing or approving the installation and
19 use of a pen register or trap and trace device under
20 this title; and

21 “(5) for each department or agency described in
22 paragraph (4), each number described in paragraphs
23 (1), (2), and (3).”.

24 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
25 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.

1 1862(a)) is amended by striking “Permanent Select Com-
2 mittee on Intelligence of the House of Representatives and
3 the Select Committee on Intelligence and the Committee
4 on the Judiciary of the Senate” and inserting “Permanent
5 Select Committee on Intelligence and the Committee on
6 the Judiciary of the House of Representatives and the Se-
7 lect Committee on Intelligence and the Committee on the
8 Judiciary of the Senate”.

9 **TITLE V—OTHER PROVISIONS**

10 **SEC. 501. UNAUTHORIZED DISCLOSURE OR REMOVAL OF** 11 **CERTAIN CLASSIFIED INFORMATION.**

12 (a) PROHIBITION ON UNAUTHORIZED DISCLO-
13 SURE.—An officer, employee, contractor, or consultant of
14 the United States, or an officer, employee, contractor, or
15 consultant of a recipient of an order issued pursuant to
16 section 501 of the Foreign Intelligence Surveillance Act
17 of 1978 (50 U.S.C. 1861) who—

18 (1) knowingly comes into possession of classi-
19 fied information or documents or materials con-
20 taining classified information of the United States
21 that—

22 (A) was submitted in connection with an
23 application to the court established under sec-
24 tion 103(a) of the Foreign Intelligence Surveil-
25 lance Act of 1978 (50 U.S.C. 1803(a));

1 (B) was submitted in connection with an
2 order approved by such court; or

3 (C) was acquired pursuant to an order or
4 directive of such court; and

5 (2)(A) knowingly and willfully communicates,
6 transmits, or otherwise makes available to an unau-
7 thorized person, such classified information or docu-
8 ments or materials; or

9 (B) knowingly removes such documents or ma-
10 terials without authority and with the intent to re-
11 tain such documents or materials at an unauthorized
12 location,

13 shall be punished according to subsection (b).

14 (b) TERM OF IMPRISONMENT.—A person who vio-
15 lates this section shall be fined under title 18, United
16 States Code, or—

17 (1) for a violation of paragraph (2)(A) of sub-
18 section (a), imprisoned for not more than 10 years;
19 or

20 (2) for a violation of paragraph (2)(B) of such
21 subsection, imprisoned for not more than 1 year,
22 or both.

23 (c) PROVISION OF INFORMATION TO CONGRESS.—
24 For purposes of this section, the provision of information

1 or documents or materials to Congress shall not constitute
2 an offense under subsection (a).

3 (d) CLASSIFIED INFORMATION OF THE UNITED
4 STATES DEFINED.—In this section, the term “classified
5 information of the United States” means information
6 originated, owned, or possessed by the United States Gov-
7 ernment concerning foreign intelligence, the national de-
8 fense or foreign relations of the United States that has
9 been determined pursuant to law or Executive order to
10 require protection against unauthorized disclosure in the
11 interests of national security.

12 **SEC. 502. APPOINTMENT OF AMICUS CURIAE.**

13 Section 103 (50 U.S.C. 1803) is amended by adding
14 at the end the following:

15 “(i) AMICUS CURIAE.—

16 “(1) AUTHORIZATION.—Notwithstanding any
17 other provision of law, a court established under
18 subsection (a) or (b) is authorized, consistent with
19 the requirement of subsection (c) and any other stat-
20 utory requirement that the court act expeditiously or
21 within a stated time, to appoint amicus curiae to as-
22 sist the court in the consideration of a covered mat-
23 ter.

24 “(2) DEFINITIONS.—In this subsection:

1 “(A) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term ‘appropriate committees of
3 Congress’ means—

4 “(i) the Committee on the Judiciary
5 and the Select Committee on Intelligence
6 of the Senate; and

7 “(ii) the Committee on the Judiciary
8 and the Permanent Select Committee on
9 Intelligence of the House of Representa-
10 tives.

11 “(B) COVERED MATTER.—The term ‘cov-
12 ered matter’ means a matter before a court es-
13 tablished under subsection (a) or (b)—

14 “(i) that, in the opinion of such a
15 court, presents a legal or technical issue
16 regarding which the court’s deliberations
17 would benefit from participation by an
18 amicus curiae; and

19 “(ii) that pertains to—

20 “(I) an application for an order
21 under this title, title III, IV, or V of
22 this Act, or section 703 or 704 of this
23 Act;

1 “(II) a review of a certification
2 or procedures under section 702 of
3 this Act; or

4 “(III) a notice of non-compliance
5 with any such order, certification, or
6 procedures.

7 “(3) DESIGNATION.—The courts established by
8 subsection (a) and (b) shall each designate 1 or
9 more individuals who have been determined by ap-
10 propriate executive branch officials to be eligible for
11 access to classified national security information, in-
12 cluding sensitive compartmented information, who
13 may be appointed to serve as amicus curiae. In ap-
14 pointing an amicus curiae pursuant to paragraph
15 (1), the court may choose from among those so des-
16 ignated.

17 “(4) EXPERTISE.—An individual appointed as
18 an amicus curiae under paragraph (1) may be a spe-
19 cial counsel or an expert on privacy and civil lib-
20 erties, intelligence collection, telecommunications, or
21 any other area that may lend legal or technical ex-
22 pertise to the court.

23 “(5) DUTIES.—An amicus curiae appointed
24 under paragraph (1) to assist with the consideration
25 of a covered matter shall carry out the duties as-

1 signed by the appointing court. That court may au-
2 thorize, to the extent consistent with the case or
3 controversy requirements of Article III of the Con-
4 stitution of the United States and the national secu-
5 rity of the United States, the amicus curiae to re-
6 view any application, certification, petition, motion,
7 or other submission that the court determines is rel-
8 evant to the duties assigned by the court.

9 “(6) NOTIFICATION.—A court established under
10 subsection (a) or (b) shall notify the Attorney Gen-
11 eral of each exercise of the authority to appoint an
12 amicus curiae under paragraph (1).

13 “(7) ASSISTANCE.—A court established under
14 subsection (a) or (b) may request and receive (in-
15 cluding on a non-reimbursable basis) the assistance
16 of the executive branch in the implementation of this
17 subsection.

18 “(8) ADMINISTRATION.—A court established
19 under subsection (a) or (b) may provide for the des-
20 ignation, appointment, removal, training, support, or
21 other administration of an amicus curiae appointed
22 under paragraph (1) in a manner that is not incon-
23 sistent with this subsection.

24 “(9) CONGRESSIONAL OVERSIGHT.—The Attor-
25 ney General shall submit to the appropriate commit-

1 tees of Congress an annual report on the number of
2 notices described in paragraph (6) received by Attor-
3 ney General for the preceding 12-month period.

4 “(j) REVIEW OF FISA COURT DECISIONS.—Fol-
5 lowing issuance of an order under this Act, a court estab-
6 lished under subsection (a) shall certify for review to the
7 court established under subsection (b) any question of law
8 that may affect resolution of the matter in controversy
9 that the court determines warrants such review because
10 of a need for uniformity or because consideration by the
11 court established under subsection (b) would serve the in-
12 terests of justice. Upon certification of a question of law
13 under this subsection, the court established under sub-
14 section (b) may give binding instructions or require the
15 entire record to be sent up for decision of the entire matter
16 in controversy.

17 “(k) REVIEW OF FISA COURT OF REVIEW DECI-
18 SIONS.—

19 “(1) CERTIFICATION.—For purposes of section
20 1254(2) of title 28, United States Code, the court
21 of review established under subsection (b) shall be
22 considered to be a court of appeals.

23 “(2) AMICUS CURIAE BRIEFING.—Upon certifi-
24 cation of an application under paragraph (1), the
25 Supreme Court of the United States may appoint an

1 amicus curiae designated under subsection (i)(3), or
2 any other person, to provide briefing or other assist-
3 ance.”.

4 **SEC. 503. EMERGENCIES INVOLVING NON-UNITED STATES**
5 **PERSONS.**

6 (a) IN GENERAL.—Section 105 (50 U.S.C. 1805) is
7 amended—

8 (1) by redesignating subsections (f), (g), (h),
9 and (i) as subsections (g), (h), (i), and (j), respec-
10 tively; and

11 (2) by inserting after subsection (e) the fol-
12 lowing:

13 “(f)(1) Notwithstanding any other provision of this
14 Act, the lawfully authorized targeting of a non-United
15 States person previously believed to be located outside the
16 United States for the acquisition of foreign intelligence in-
17 formation may continue for a period not to exceed 72
18 hours from the time that the non-United States person
19 is reasonably believed to be located inside the United
20 States and the acquisition is subject to this title or to title
21 III of this Act, provided that the head of an element of
22 the intelligence community—

23 “(A) determines—

24 “(i) that there exists an exigent cir-
25 cumstance; and

1 “(ii) there is reason to believe that the tar-
2 get of the acquisition has communicated or re-
3 ceived or will communicate or receive foreign in-
4 telligence information relevant to the exigent
5 circumstance;

6 “(B) promptly notifies the Attorney General of
7 a determination under subparagraph (A); and

8 “(C) requests, as soon as practicable, the em-
9 ployment of emergency electronic surveillance under
10 subsection (e) or the employment of an emergency
11 physical search pursuant to section 304(e), as war-
12 ranted.

13 “(2) The authority under this subsection to continue
14 the acquisition of foreign intelligence information is lim-
15 ited to a period not to exceed 72 hours and shall cease
16 upon the earlier of the following:

17 “(A) The employment of emergency electronic
18 surveillance under subsection (e) or the employment
19 of an emergency physical search pursuant to section
20 304(e).

21 “(B) An issuance of a court order under this
22 title or title III of this Act.

23 “(C) The Attorney General provides direction
24 that the acquisition be terminated.

1 “(D) The head of the element of the intel-
2 ligence community conducting the acquisition deter-
3 mines that a request under paragraph (1)(C) is not
4 warranted.

5 “(E) When the threat of death or serious bodily
6 harm to any person is no longer reasonably believed
7 to exist.

8 “(3) Nonpublicly available information concerning
9 unconsenting United States persons acquired under this
10 subsection shall not be disseminated during the 72 hour
11 time period under paragraph (1) unless necessary to inves-
12 tigate, reduce, or eliminate the threat of death or serious
13 bodily harm to any person.

14 “(4) If the Attorney General declines to authorize the
15 employment of emergency electronic surveillance under
16 subsection (e) or the employment of an emergency physical
17 search pursuant to section 304(e), or a court order is not
18 obtained under this title or title III of this Act, informa-
19 tion obtained during the 72 hour acquisition time period
20 under paragraph (1) shall not be retained, except with the
21 approval of the Attorney General if the information indi-
22 cates a threat of death or serious bodily harm to any per-
23 son.

24 “(5) Paragraphs (5) and (6) of subsection (e) shall
25 apply to this subsection.”.

1 (b) NOTIFICATION OF EMERGENCY EMPLOYMENT OF
 2 ELECTRONIC SURVEILLANCE.—Section 106(j) (50 U.S.C.
 3 1806(j)) is amended by striking “section 105(e)” and in-
 4 serting “subsection (e) or (f) of section 105”.

5 **SEC. 504. PERIODIC REVIEW OF INTELLIGENCE COMMU-**
 6 **NITY PROCEDURES FOR THE ACQUISITION,**
 7 **RETENTION, AND DISSEMINATION OF INTEL-**
 8 **LIGENCE.**

9 (a) IN GENERAL.—Title V of the National Security
 10 Act of 1947 (50 U.S.C. 3091 et seq.) is amended by add-
 11 ing at the end the following:

12 **“SEC. 511. PERIODIC REVIEW OF INTELLIGENCE COMMU-**
 13 **NITY PROCEDURES FOR THE ACQUISITION,**
 14 **RETENTION, AND DISSEMINATION OF INTEL-**
 15 **LIGENCE.**

16 “(a) HEAD OF AN ELEMENT OF THE INTELLIGENCE
 17 COMMUNITY DEFINED.—In this section, the term ‘head
 18 of an element of the intelligence community’ means, as
 19 appropriate—

20 “(1) the head of an element of the intelligence
 21 community; or

22 “(2) the head of the department or agency con-
 23 taining such element.

24 “(b) REVIEW OF PROCEDURES APPROVED BY THE
 25 ATTORNEY GENERAL.—

1 “(1) REQUIREMENT FOR IMMEDIATE RE-
2 VIEW.—Each head of an element of the intelligence
3 community that has not obtained the approval of the
4 Attorney General for the procedures, in their en-
5 tirety, required by section 2.3 of Executive Order
6 12333 (50 U.S.C. 3001 note) within 5 years prior
7 to the date of the enactment of the FISA Reform
8 Act of 2015, shall initiate, not later than 180 days
9 after such date of enactment, a review of the proce-
10 dures for such element, in accordance with para-
11 graph (3).

12 “(2) REQUIREMENT FOR REVIEW.—Not less
13 frequently than once every 5 years, each head of an
14 element of the intelligence community shall conduct
15 a review of the procedures approved by the Attorney
16 General for such element that are required by sec-
17 tion 2.3 of Executive Order 12333 (50 U.S.C. 3001
18 note), or any successor order, in accordance with
19 paragraph (3).

20 “(3) REQUIREMENTS FOR REVIEWS.—In coordi-
21 nation with the Director of National Intelligence and
22 the Attorney General, the head of an element of the
23 intelligence community required to perform a review
24 under paragraphs (1) or (2) shall—

1 “(A) review existing procedures for such
2 element that are required by section 2.3 of Ex-
3 ecutive Order 12333 (50 U.S.C. 3001 note), or
4 any successor order, to assess whether—

5 “(i) advances in communications or
6 other technologies since the time the proce-
7 dures were most recently approved by the
8 Attorney General have affected the privacy
9 protections that the procedures afford to
10 United States persons, to include the pro-
11 tections afforded to United States persons
12 whose nonpublic communications are inci-
13 dentally acquired by an element of the in-
14 telligence community; or

15 “(ii) aspects of the existing proce-
16 dures impair the acquisition, retention, or
17 dissemination of timely, accurate, and in-
18 sightful information about the activities,
19 capabilities, plans, and intentions of for-
20 eign powers, organization, and persons,
21 and their agents; and

22 “(B) propose any modifications to existing
23 procedures for such element in order to—

24 “(i) clarify the guidance such proce-
25 dures afford to officials responsible for the

1 acquisition, retention, and dissemination of
2 intelligence;

3 “(ii) eliminate unnecessary impedi-
4 ments to the acquisition, retention, and
5 dissemination of intelligence; or

6 “(iii) ensure appropriate protections
7 for the privacy of United States persons
8 and persons located inside the United
9 States.

10 “(4) NOTICE.—The Director of National Intel-
11 ligence and the Attorney General shall notify the
12 congressional intelligence committees following the
13 completion of each review required under this sec-
14 tion.

15 “(5) REQUIREMENT TO PROVIDE PROCE-
16 DURES.—Upon the implementation of any modifica-
17 tions to procedures required by section 2.3 of Execu-
18 tive Order 12333 (50 U.S.C. 3001 note), or any suc-
19 cessor order, the head of the element of the intel-
20 ligence community to which the modified procedures
21 apply shall promptly provide a copy of the modified
22 procedures to the congressional intelligence commit-
23 tees.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 in the first section of the National Security Act of 1947

1 is amended by adding after the section relating to section
2 510 the following:

“Sec. 511. Periodic review of intelligence community procedures for the acquisition, retention, and dissemination of intelligence.”.

3 **SEC. 505. PRESERVATION OF TREATMENT OF NON-UNITED**
4 **STATES PERSONS TRAVELING OUTSIDE**
5 **UNITED STATES AS AGENTS OF FOREIGN**
6 **POWERS.**

7 Section 101(b)(1) (50 U.S.C. 1801(b)(1)) is amend-
8 ed—

9 (1) in subparagraph (A), by inserting before the
10 semicolon at the end the following: “, irrespective of
11 whether the person is inside the United States”; and

12 (2) in subparagraph (B)—

13 (A) by striking “of such person’s presence
14 in the United States”; and

15 (B) by striking “such activities in the
16 United States” and inserting “such activities”.

17 **SEC. 506. IMPROVEMENT TO INVESTIGATIONS OF INTER-**
18 **NATIONAL PROLIFERATION OF WEAPONS OF**
19 **MASS DESTRUCTION.**

20 Section 101(b)(1) (50 U.S.C. 1801(b)(1)), as amend-
21 ed by section 506, is further amended by striking subpara-
22 graph (E) and inserting the following:

23 “(E) engages in the international prolifera-
24 tion of weapons of mass destruction, or activi-

1 ties in preparation therefor, for or on behalf of
2 a foreign power, or knowingly aids or abets any
3 person in the conduct of such proliferation or
4 activities in preparation therefor, or knowingly
5 conspires with any person to engage in such
6 proliferation or activities in preparation there-
7 for; or”.

8 **SEC. 507. SUNSET OF ACCESS TO BUSINESS RECORDS, AU-**
9 **THORITY FOR ROVING SURVEILLANCE, AND**
10 **INDIVIDUAL TERRORISTS AS AGENTS OF**
11 **FOREIGN POWERS.**

12 (a) ACCESS TO BUSINESS RECORDS AND AUTHORITY
13 FOR ROVING SURVEILLANCE.—Section 102(b)(1) of the
14 USA PATRIOT Improvement and Reauthorization Act of
15 2005 (50 U.S.C. 1805 note) is amended by striking “June
16 1, 2015” and inserting “December 15, 2019”.

17 (b) INDIVIDUAL TERRORIST AS AGENTS OF FOREIGN
18 POWERS.—Section 6001(b)(1) of the Intelligence Reform
19 and Terrorism Prevention Act of 2004 (50 U.S.C. 1801
20 note) is amended by striking “June 1, 2015” and insert-
21 ing “December 15, 2019”.

1 **SEC. 508. RESTORATION OF AUTHORITY FOR ACCESS TO**
2 **BUSINESS RECORDS, ROVING SURVEIL-**
3 **LANCE, AND INDIVIDUAL TERRORISTS AS**
4 **AGENTS OF FOREIGN POWERS.**

5 Effective on the date of the enactment of this Act,
6 sections 101(b)(1)(C), 105(e)(2), 501, and 502 of the For-
7 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
8 1801(b)(1)(C), 1805(e)(2), 1861, and 1862) are amended
9 to read as each such section read on May 31, 2015.

○